

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Brian Harold Logan,

Plaintiff,

v.

Nancy A. Berryhill, Acting Commissioner
of Social Security Administration,

Defendant.

Civil Action No. 4:18-cv-01533-TLW

ORDER

This matter is before the Court for review of Counsel for Plaintiff's motion for attorney's fees and costs pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. ECF No. 24. The Commissioner filed a stipulation to an award of EAJA fees in the amount of five thousand three hundred dollars (\$5,300.00). ECF No. 25. The attorney's fees are based upon a remand to the Commissioner for further administrative action in this case.

Under the EAJA, a court shall award attorney's fees to a prevailing party in certain civil actions against the United States unless the court finds that the government's position was substantially justified or special circumstances make an award unjust. 28 U.S.C. § 2412(d)(1)(A). To determine whether the Commissioner was "substantially justified" in denying social security benefits and thus whether an award of attorney's fees under the EAJA is warranted, the court asks whether there was arguably substantial evidence to support the Commissioner's position. *Anderson v. Heckler*, 756 F.2d 1011 (4th Cir. 1984). An EAJA attorney's fees award is payable to the litigant and, therefore, is subject to an offset to satisfy the litigant's pre-existing debt to the Government. *Astrue v. Ratliff*, 560 U.S. 586, 594 (2010).

After careful consideration of the record and the applicable legal authority, the Court concludes that the requested fees should be awarded. As noted, the parties have stipulated to the

amount of \$5,300.00, to be offset by the amount of Plaintiff's pre-existing federal debts. *See Astrue*, 560 U.S. at 594.

Having reviewed the file and being fully advised, it is **ORDERED** that the motion for attorney's fees under the EAJA, 28 U.S.C. § 2412, ECF No. 24, is **GRANTED**, and the Commissioner is ordered to award Plaintiff \$5,300.00, offset by his pre-existing federal debts, for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action.

IT IS SO ORDERED.

s/Terry L. Wooten
Terry L. Wooten
Senior United States District Judge

June 4, 2019
Columbia, South Carolina